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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/649,785	08/29/00	RAMPERSAD K	MITT-CON

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PM82/0327

EXAMINER

NGUYEN, S

ART UNIT	PAPER NUMBER
3643	3

DATE MAILED: 03/27/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/649,785

Applicant(s)

RAMPERSAD, KENRICK

Examiner

Son T. Nguyen

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-11, 13-15 and 24-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-11, 13-15 and 24-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

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PmP

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 25, 27** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 25, line 3, "the palm" lacks prior antecedent basis; however, the applicant can eliminate this problem by inserting ---of a user--- after "palm". Regarding claim 27, line 1, the dependency of claim 27 to claim 1 is improper because claim 1 claims a mitt and claim 27 claims a brush. The examiner believes this is a type error and is considering, for purpose of examination, the dependency of claim 27 is to claim 24.

Claim Rejections - 35 USC § 102

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-3, 6, 8-11, 13, 15** are rejected under 35 U.S.C. 102(b) as being anticipated by Myren (US 3,778,172).

Regarding claim 1, Myren discloses a grooming and washing mitt comprising a hollow flexible body 20 having a flexible rear side co-extensive with a flexible palm side cleaning surface and a separate hollow thumb portion 22 extending therefrom; a built-in fluid reservoir 26 extending within the body from a distal fingertip end to a proximal wrist

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end adjacent to an open end of the body, the reservoir having a plurality of discharge ports 25, 27 openable upon flexing of the mitt (see col. 4, lines 5-13 where Myren discloses that the fluid discharge ports normally remain closed unless a user force the fluid onto the palm side of the mitt); a predetermined denser pattern of flexible nibs 10 on the palm side, the nibs extending axially from the distal fingertip end to the proximal wrist end of the mitt and extending medially along a mid-line of the mitt.

Regarding claim 2, Myren further discloses the plurality of discharge ports extends through a large portion of the palm side of the mitt.

Regarding claim 3, Myren further discloses in col. 4, lines 5-13, that the discharge ports normally remain closed when no internal pressure is built up and the palm is kept essentially flat, but open when the palm side is flexed in a concave configuration.

Regarding claim 6, Myren further discloses a reservoir filling port 28 and an integrally molded stopper 29 removably attachable to the filling port.

Regarding claim 8, Myren further discloses the mitt is molded of rubber.

Regarding claims 9-11, 13, 15, see the above paragraphs for explanation.

4. **Claims 24, 25, 27** are rejected under 35 U.S.C. 102(b) as being anticipated by Wilkeson (US 4,543,913).

Regarding claim 24, Wilkeson discloses a grooming and washing brush 10 comprising a hollow flexible body 11 having a flexible rear side co-extensive with a flexible palm side cleaning surface and at least one strap 61 located adjacent to the rear side on the opposite side from a front palm side; a built-in fluid reservoir 14 extending

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within the body from a distal fingertip end to a proximal wrist end adjacent to an open end of the body, the reservoir having a plurality of discharge ports 27, 29 openable upon flexing of the mitt; a predetermined denser pattern of flexible nibs 25, 26 on the palm side 15, the nibs extending axially from the distal fingertip end to the proximal wrist end of the mitt and extending medially along a mid-line of the mitt (the mid-line is considered to be the whole area in the middle of the brush where the nibs are located).

Regarding claim 25, Wilkeson further discloses in col. 4, lines 36-38, the discharge ports normally remain closed when no internal pressure is built up and the palm of the user is kept essentially flat but open when the palm side of the brush is flexed in a concave configuration.

Regarding claim 27, Wilkeson further discloses a reservoir filling port 19 and an integrally molded stopper 20.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claim 4** is rejected under 35 U.S.C. 103(a) as being unpatentable over Myren (US 3,778,172) in view of Kupperman et al. (US 4,107,840).

Regarding claim 4, Myren is silent about the dense pattern of nibs including a central nib with a plurality of concentric circles of nibs. Kupperman et al. teaches an abrasive hand covering comprising a dense pattern of nibs 70 having a central nib 80

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with further concentric circles of nibs 82, 86. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a dense pattern as taught by Kupperman et al. on the palm side of the mitt of Myren in order to provide a better and stronger nibs system for engaging a pet's hair.

7. **Claims 7, 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Myren (US 3,778,172) in view of Livshin (US 2,569,067).

Regarding claim 7, Myren is silent about the mitt further comprising a hanging tab. Livshin teaches a wash mitten in which Livshin employs a hanging tab 44 secured thereto in order to prevent accidental lost or be used by others than for whom it is intended (see col. 2, lines 17-21). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a hanging tab as taught by Livshin on the mitt of Myren in order to prevent accidental lost of the mitt or be used by others than for whom it is intended.

Regarding claim 14, see the above paragraphs for explanation.

8. **Claim 26** is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkinson (US 4,543,913) in view of Kupperman et al. (US 4,107,840). Wilkinson is silent about the dense pattern of nibs including a central nib with a plurality of concentric circles of nibs. Kupperman et al. teaches an abrasive hand covering comprising a dense pattern of nibs 70 having a central nib 80 with further concentric circles of nibs 82, 86. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a dense pattern as taught by Kupperman et al. on the

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palm side of the brush of Wilkinson in order to provide a better and stronger nibs system for engaging a pet's hair.

Double Patenting

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. **Claims 1-4, 6-11, 13-15** are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. **6,109,214** (herein US214). Although the conflicting claims are not identical, they are not patentably distinct from each other because the present invention claims a boarder limitation of US214. For example, both the present invention and US214 disclose a grooming and washing mitt comprising a hollow flexible body having a flexible rear side co-extensive with a flexible palm side cleaning surface and a separate hollow thumb portion extending therefrom; a built-in fluid reservoir; a plurality of discharge ports; a predetermined denser pattern of flexible nibs.


11. The following prior arts are made of record to provide the best available relevant examples of a grooming device: Guild teaches a cleaning implement resembling a mitt

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with reservoir and nibs. Halstead teaches a bath brush having a built-in reservoir and nibs. Moore teaches a scrubber having a pad, strip of cleaning media and reservoir to store the media. Davis teaches hand-worn dispenser having a reservoir. Courtney et al. teach a pet brush with different nib patterns. Holland teaches a grooming device resembling a brush having a strap, a reservoir, and nibs. Zell and Sullins teach a washing device resembling a brush with fingers insertion member, a reservoir, and nibs. Ives teaches a comb having a reservoir and nibs. Wilson teaches a hairbrush with a reservoir and different nib patterns.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 8:30 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon, can be reached at (703) 308-2574. The fax number of the Art Unit is (703)-305-3597. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.

Son T. Nguyen *STN*
Patent Examiner GAU 3643
March 26, 2001


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